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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,585	05/21/2002	Ulf Tolfsen	1807-0161P	4878
2292	7590	10/27/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			RICHARDSON, JOHN A	
		ART UNIT	PAPER NUMBER	
		3641		

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/088,585	TOLFSEN ET AL.	
	Examiner	Art Unit	
	John Richardson	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 October 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Non Final Rejection

- 1). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 2). The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 3). The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4). The disclosure is objected to because of the following informalities:

- Item 35, shown in Figure 6, is not adequately disclosed in specification description of the claimed invention, see for example, page 6.

Appropriate correction is required.

5). Claims 1 to 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, i.e. failing to provide an enabling disclosure.

In particular, claim 1, lines 4-5, recites the limitation that **the upper attachment point (2) is arranged displaceably in the vertical direction on the body of the vehicle** (emphasis added).

There is no adequate description nor enabling disclosure of how the said upper point attachment (2) is **arranged on** the said vehicle body. It is noted that the specification disclosure, page 3, lines 22+, page 4, lines 1-12, page 5, lines 24+, page 6, lines 1-11, Figures 1, 2, 5, 6, disclose that the said item 2, is attached to guide rail (item 16).

Note that a disclosure in an application, to be complete, must contain such description and detail as to enable any person skilled in the art or science to which the invention pertains to make and use the invention as of its filing date, *In re Glass*, 181 USPQ 31.

6). Claims 1 to 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, i.e. failing to provide an enabling disclosure.

Specifically, the claims refer to the component **item 35**, that is not adequately disclosed in the specification.

7). Claims 1 to 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague, indefinite and incomplete as to how and in what manner the cited **“upper attachment point (2) is arranged displaceably in the vertical direction on the body of the vehicle”** (emphasis added). For example, a) is intended that the said attachment point is directly connected to the said vehicle inner framework / body, b) that the said attachment is connected indirectly to the said vehicle framework / body, or c) attached / connected / anchored in some other manner?

8). Claims 1, 4, 8, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumann et al (U.S. 5,884,940).

The reference discloses a vehicle safety belt height adjusting mechanism (item 10) that reads on the cited claims comprising an upper attachment (item 13) located in a vertical slide (item 12), an adjustable vehicle seat (item 19), said seat movement-transmitting means (items 20, 21), relating to claim 4, the reference discloses a push-pull cable with first and second ends connected to the said seat and upper attachment (see Figures 3, 4), relating to claim 8, the reference discloses a vertical movement slide (item 12), relating to claim 9, the reference discloses a reel detail (item 15).

A note a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from prior art apparatus" if the prior art teaches all the structural limitations of the claim. *In re Masham*, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device *is*, not what a device *does*. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP§ 2115, a recitation in a claim to the material or article worked upon, does not serve to limit an apparatus claim.

9). Claims 1 to 4, 9 to 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Homeier et al (U.S. 5,015,010).

The reference discloses an integrated vehicle seat belt system (item 20) providing for vertical movement of passenger seat (item 21), seat belt (item 25), an upper belt attachment anchor point (item 35), a spring-mounted seat feature (item 88) facilitating vertical movement / suspension, seat movement –transmission means (items 85, 86), relating to claim 2, the reference discloses seat movement-transmission links (Column 4, lines 1-17), relating to claim 3, the reference discloses a first link (item 85) and a second link (item 86), relating to claim 4, the reference discloses a push-pull cable effecting said seat vertical movement (item 90), relating to claim 9, the reference disclose a belt reel retractor detail (item 53), relating to claim 10, the reference disclose a belt deflection means (items 30, 61), relating to claim 11, the reference discloses that the said seat vertical adjustment is in a linear relationship of the springing movement / mechanical suspension of the said seat (see Figures 1, 2, 7, item 88).

10). Claims 1 to 8, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Jahn et al (U.S. 4,173,357).

The reference discloses a seat belt height adjustment system comprising an upper anchoring / deflection point (item 4) for vehicle shoulder seat belt (Column 2, lines 47+), a vehicle seat (item 3), a movement-transmission system for said seat (item 6), relating

to claims 2, 3, the reference discloses a plurality of seat movement links (items 14, 15, 18), relating to claim 4, the reference discloses a Bowden cable system connected to the said upper attachment point and the said seat for effecting vertical adjustment (item 11), relating to claims 5-7, the reference discloses first (item 8) and second (item 10) hydraulic piston / cylinders located the said seat and the said upper attachment points respectively (see Figure 1), relating to claim 8, the reference discloses a vertical guide (item 5), relating to claim 12, the said seat vertical movement is a linear function of the position of said seat linkage item 15 as depicted in Figure 2.

11). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305 0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

John Richardson, PE,

October 21 2003.

10/21/03
SUPERIOR
JOHN RICHARDSON